

**IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER**

IN THE MATTER OF:  <b>TEAMS 2000 LLC</b> Masonville, Iowa	ADMINISTRATIVE CONSENT ORDER NO. 20 <u>09</u> -AFO- <u>02</u>
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TO: Mark Goebel, Registered Agent  
TEAMS 2000 LLC  
1047 170<sup>th</sup> Street  
Masonville, Iowa 50654

**I SUMMARY**

This administrative consent order is entered into between TEAMS 2000 LLC (TEAMS) and the Iowa Department of Natural Resources (DNR) for the purpose of resolving the issues surrounding a manure discharge into the North Branch of the Volga River. In the interest of avoiding litigation, the parties have agreed to the provisions below.

Questions regarding this administrative consent order should be directed to:

**Relating to technical requirements:**

Rick Martens, Field Office 1  
Iowa Department of Natural Resources  
909 West Main Street  
Manchester, Iowa 52057  
Phone: 563/927-2640

**Relating to legal requirements:**

Kelli Book, Attorney for the DNR  
Iowa Department of Natural Resources  
7900 Hickman Road, Suite 1  
Urbandale, Iowa 50322  
Phone: 515/281-8563

**Payment of penalty to:**

Director, Iowa Dept. of Natural Resources  
Wallace State Office Building  
502 East Ninth Street  
Des Moines, Iowa 50319-0034

**II. JURISDICTION**

This administrative consent order is issued pursuant to Iowa Code section 455B.175(1) which authorizes the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division III, Part 1 and Iowa Code chapter 459 and the rules adopted or permits issued pursuant thereto, and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties.

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**III. STATEMENT OF FACTS**

1. TEAMS is a licensed commercial manure applicator service. The company services animal feeding operations by pumping and land applying manure from confinement and open lot operations. The company works primarily in northeast Iowa.

2. On May 15, 2008, Mark Goebel, TEAMS owner, contacted DNR Field Office 1 to report a manure spill. Mr. Goebel stated that approximately 5,000 gallons of liquid hog confinement manure had been discharged to a road ditch and then entered the North Branch of the Volga River. He stated the spill location was at the bridge near the intersection of Quarry Road and 170<sup>th</sup> Street in Fayette County. DNR Field Office 1 was then contacted by Scot Michelson, DNR Park Ranger, who was at the spill site. Mr. Michelson stated the manure had entered the North Branch of the Volga River and that the earthen dam constructed by TEAMS to contain the manure spill had failed. Mr. Michelson thought that most of the manure had already entered the stream and there was little reason for further containment.

3. On May 15, 2008, Rick Martens and Don Chase, DNR Field Office 1 environmental specialists, visited the spill site. Mr. Martens and Don Chase met with Mark and Sue Goebel at the 170<sup>th</sup> Street bridge crossing of the North Branch of the Volga River in section 8 of Windsor Township. They inspected the manure spill location and observed a stained wet area on the north edge of the gravel road and a trail of manure residue leading from the road edge, through the ditch and into the stream. The area had a strong odor, foam was present on vegetation and field tests indicated the presence of ammonia nitrogen. The group observed a small flow of water moving through the ditch and spill site and then entering the stream.

4. Mr. Goebel stated that TEAMS was hired by C&J Pork Site 3 to apply 300,000 gallons of manure from a 2,400 head hog confinement. On the morning of May 15, 2008, TEAMS began the application using a dragline hose and a tractor injection system. The dragline hose crossed the 170<sup>th</sup> Street bridge, but shortly after the pumping operations began, the dragline hose rolled off the road and into the field. The dragline hose was stretched and tore releasing the liquid manure. The TEAMS employee at the confinement site noted the drop in pressure and immediately stopped the pumping operations. The TEAMS employee followed the dragline hose and discovered the tear. He clamped the line tear. Mr. Goebel stated that an emergency earthen dam was created in the ditch near the stream. The earthen dam initially held the manure, but failed under the pressure of the manure as well as water coming from the tile outlet in the ditch.

5. Mr. Martens and Mr. Chase continued the investigation by inspecting the North Branch of the Volga River and the north road ditch. Mr. Martens and Mr. Chase began looking at the stream approximately 25 feet upstream of the confluence with the road ditch manure discharge. They noted that the stream appeared clear, free of foam and odor and field tests did not indicate the presence of ammonia nitrogen. Mr. Martens and Mr.

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Chase collected laboratory samples at this location. They then proceeded to the mouth of the discharge. The stream was grey in color, smelled of manure, contained foam, and the field tests indicated the presence of ammonia nitrogen. Laboratory samples were also collected at this site. Mr. Martens and Mr. Chase continued to the north road ditch spill site. They noted clear water flowing through the site from the up-gradient tile outlet, with the water at the spill site having a strong manure odor, foam and manure solids were observed on the vegetation. The field tests indicated the presence of ammonia nitrogen. Laboratory samples were collected at this site. The field office personnel proceeded approximately 100 feet downstream of the 170<sup>th</sup> Street Bridge. The stream was cloudy, had a manure odor, and foam was present along the stream bank. Mr. Martens and Mr. Chase also observed several dead fish and field tests indicated the presence of ammonia nitrogen. Mr. Martens and Mr. Chase continued downstream to the 160<sup>th</sup> Street Bridge. The water was grey in color and had a manure odor. The field office personnel observed a tributary entering the stream on the northeast bank that was clear. Several large struggling fish were observed, as well as dead one. The field tests indicated the presence of ammonia nitrogen. Laboratory samples were collected at this location. The field office personnel continued downstream to the next bridge at Highway 93. The field tests did not detect any ammonia nitrogen and the water appeared normal. Laboratory samples were collected at this site. The field office personnel contacted DNR Fisheries regarding the fish kill. The laboratory results indicated the following:

Location	Ammonia Nitrogen	Total Suspended Solids
25 Feet Upstream	<0.05 mg/L	9 mg/L
Mouth of Discharge	82 mg/L	220 mg/L
Ditch Spill Site	120 mg/L	8500 mg/L
100 Feet Downstream	2.7 mg/L	18 mg/L
160 <sup>th</sup> Street Bridge	30 mg/L	150 mg/L

6. On June 3, 2008, DNR Field Office 1 issued a Notice of Violation letter to TEAMS for the violations discovered during the inspection on May 15, 2008. The violations included prohibited discharge, minimum manure control, and water quality violations. The letter informed TEAMS that further legal action was under evaluation. On June 10, 2008, DNR Field Office 1 received the written spill report from TEAMS.

7. The fish kill evaluation by DNR Fisheries concluded that 4,170 fish valued at \$681.86 were killed. The cost of performing this assessment was \$559.31. The complete fish kill assessment totals \$1,241.17.

#### IV. CONCLUSIONS OF LAW

1. Iowa Code section 455B.186 prohibits the discharge of pollutants into a water of the state, except for adequately treated pollutants discharged pursuant to a permit from the DNR. DNR Field Office 1 found evidence of the discharge of untreated pollutants into a water of the state. The above-facts indicate a violation of this provision.

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2. Iowa Code section 459.103 provides that the Environmental Protection Commission (Commission) shall adopt rules related to the construction or operation of animal feeding operations, including permit and minimum manure control requirements. The Commission has adopted such rules at 567 IAC chapter 65.

3. 567 IAC 65.2(7) states that all manure removed from an animal feeding operation or its manure control facilities shall be land-applied in a manner which will not cause surface or groundwater pollution. The manure discharge from TEAMS resulted in water quality violations. The above-mentioned facts indicate a violation of this provision.

4. 567 IAC 61.3(2) provides general water quality criteria and prohibits discharges that will produce objectionable color, odor or other aesthetically objectionable conditions; settle to form sludge deposits; interfere with livestock watering; or are toxic to animal or plant life. DNR Field Office 1 observed liquid manure that had entered a water of the state. The field office personnel observed the North Branch of the Volga River was foamy, grey in color and had a manure odor. The laboratory results indicated high levels ammonia nitrogen and total suspended solids. Additionally, as a result of the discharge, a documented fish kill occurred. The above-facts disclose a violation of one or more of these criteria.

5. Iowa Code section 481A.151 provides that a person who is liable for polluting a water of the state in violation of state law shall also be liable to pay restitution to the DNR for injury caused to a wild animal by the pollution. The DNR has adopted 571 IAC chapter 113. 571 IAC chapter 113 provides that a person who is liable for polluting a water of this state in violation of state law shall also be liable to pay restitution to the DNR for injury caused to a wild animal by the pollution. A fish kill resulted from the manure discharge by TEAMS.

**V. ORDER**

THEREFORE, the DNR orders and TEAMS agrees to do the following:

1. TEAMS shall pay restitution in the amount of \$1,241.17 within 30 days of the date the Director signs this administrative consent order; and
2. TEAMS shall pay a penalty of \$3,500.00 to the DNR within 30 days from the date the Director signs this administrative consent order.

**VI. PENALTY**

1. Iowa Code section 455B.191 authorize the assessment of civil penalties of up to \$5,000.00 per day of violation for each of the water quality violations involved in this matter.

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2. Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000.00, which may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties in 567 IAC chapter 10. Pursuant to these rules, the DNR has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an administrative consent order with an administrative penalty. The administrative penalty assessed by this administrative consent order is \$3,500.00. The administrative penalty is determined in accordance with the following:

Economic Benefit – TEAMS made minimal efforts to control the spill. TEAMS saved time and money by failing to adequately respond to the spill. Based on the above factors, \$500.00 is assessed for this factor.

Gravity of the Violation – One of the factors to be considered in determining the gravity of a violation is the amount of penalty authorized by the Iowa Code for that type of violation. As indicated above, substantial civil penalties are authorized by statute. Despite the high penalties authorized, the DNR has decided to handle the violations administratively at this time, as the most equitable and efficient means of resolving the matter. The violations cited in this order threaten the integrity of the regulatory program because compliance with the regulations is required of all persons in this state. There was a release of manure that caused water quality violations. Additionally, the manure discharge caused a fish kill. Based on the above considerations, \$2,000.00 is assessed for this factor.

Culpability – All commercial manure services have a duty to remain knowledgeable of the DNR's requirements and to be alert to the probability that its conduct is subject to DNR's rules. TEAMS only action to mitigate the spill was the initial containment and the clean-up. Based on the above considerations, \$1,000.00 is assessed for this factor.

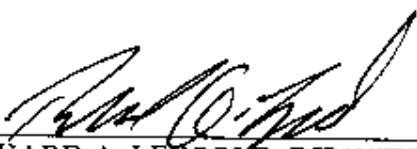
## **VII. WAIVER OF APPEAL RIGHTS**

This administrative consent order is entered into knowingly by and with the consent of TEAMS. For that reason, TEAMS waives the right to appeal this administrative consent order or any part thereof.

## **VIII. NONCOMPLIANCE**

Compliance with Section V of this administrative consent order constitutes full satisfaction of all requirements pertaining to the violations described in this administrative consent order. Failure to comply with this administrative consent order may result in the imposition of administrative penalties pursuant to an administrative order or referral to the Attorney General to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.191.

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RICHARD A. LEOPOLD, DIRECTOR  
Iowa Department of Natural Resources

Dated this 16 day of  
Jan, 20 09.

Teams 2000 LLC Sue Goebel  
TEAMS 2000 LLC v. pres.

Dated this 16 day of  
Jan, 20 09.

DNR Field Office 1; Kelli Book; Gene Tinker; EPA; VIII.D.3